

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN MCQUEEN,

Plaintiff,

v.

**Civil Action 2:16-cv-344
Judge George C. Smith
Magistrate Judge Chelsey M. Vascura**

LYNN FISHER, et al.,

Defendants.

REPORT AND RECOMMENDATION

Plaintiff, who is proceeding without the assistance of counsel, filed his initial Complaint on April 18, 2016, and an Amended Complaint on December 12, 2016. (ECF Nos. 1 & 6.). On October 10, 2017, the Court ordered Plaintiff to show cause as to why this action should not be dismissed against Defendant Einloth without prejudice for failure to timely effect service pursuant to Federal Rule of Civil Procedure 4(m). (ECF No. 25.)

To date, Plaintiff has failed to respond to the Court's Show Cause Order. It is therefore **RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** against Defendant Einloth pursuant to Rule 4(m) for failure to timely effect service of process.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those

portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura
CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE